



The 2009 State of the State Address

The New “Alabama Code of Public Ethics”

When it comes to attracting new jobs to the State, the integrity of State government can be a critical factor. That’s another reason why elected officials must be accountable, the process of government policy-making must be transparent, and State government must operate “above board” in every instance.

Alabama’s ethics code is among the weakest in the nation. The Center for Public Integrity gives Alabama a “C” for its laws regarding financial disclosures by public officials and an “F” for lobbyist spending disclosure. In the Better Government Association’s national index, Alabama ranks as the third worst state for the weakness of its laws relating to transparency, ethics, and accountability in government.

In Alabama, the wining and dining of elected officials is practically unlimited. Lobbyists don’t have to report a dime they spend on entertaining an elected official unless the cost exceeds \$250 per day. That means a lobbyist can spend over \$91,000 per year on an elected official without reporting a thing. And he can spend even more than that, just so long as he reports it. The Ethics Code fails to expressly prohibit or even limit gifts and other benefits to an elected official unless there is a provable quid-pro-quo. In that respect, it doesn’t prohibit anything that’s not already outlawed by the state’s bribery statute. Elected officials are capable of arranging consulting jobs with entities that receive public funds, such as grants or contracts, without even disclosing the existence of their contract. When a public official does violate the ethics code, **Alabama has the only Ethics Commission in the nation without the one tool absolutely critical to a thorough investigation – subpoena power.**

Each year, Governor Riley has proposed major ethics reform bills to strengthen certain aspects of the state’s ethics laws. But invariably, those bills get lost in the shuffle of the legislative session. This year, he is taking a different approach. He is proposing the most sweeping overhaul of the state’s ethics code since it was adopted in 1973. The new **Alabama Code of Public Ethics** will be a powerful check on the self interests of elected officials. And in the wake of a series of embarrassing public corruption scandals, which have resulted in indictments and convictions, the new Code of Public Ethics will deter conflicts of interest and rebuild the people’s trust in government and their elected officials.

The new Code of Public Ethics is built around the following principles and includes the following key provisions:

- **Public officials are *Public Servants*.** As a symbolic measure, all references to public officials and public employees have been replaced with the term “public servants” to remind those in government of the duty of service—the duty to serve not our own self interests, but the best interests of the people.
- **In order to be accountable, Government must be transparent and open.**
 - **Full disclosure of all lobbyists’ spending on public servants.** Requires lobbyists to include on their quarterly reports “an itemized list of each thing of value provided to a public servant and any member of the public servant’s household.”
 - **Public servants required to disclose *all* contracts with entities that receive public funds.** “A copy of any government contract entered into by a public servant, a member of his or her household, and any business with which the person is associated,¹ shall be filed with the commission, *whether or not the contract was required to be competitively bid.*”
 - **Internet posting of all lobbyists’ spending on public servants and all statements of economic interest and other required disclosures.** “The commission shall implement and maintain an electronic database accessible to the public through an Internet website which offers the capability to search and retrieve all statements, reports, and other filings by the name of the public servant to which they pertain.” The system must also be capable of generating “an aggregate list of all things of value provided to a public servant and his or her family member.”
- **Sound, effective ethics rules and standards prevent conflicts of interest, as well as the *appearance* of conflicts of interest.**
 - **Gifts over \$25 are prohibited from lobbyists, state contractors, and others interested in government action.** The current code expressly prohibits only gifts given “for the purpose of influencing official action.” Under the new Code of Public Ethics, with limited and reasonable exceptions, “A public servant shall not, directly or indirectly, solicit or accept a thing of value from a prohibited source (lobbyists, state contractors, those seeking contracts, etc.).”
 - **Public servants may not solicit or accept gifts over \$25 “given because of their official position.”**

¹ Defined in the current code as a business of which the public servant or a member of his family is an officer, owner, partner, director, member, employee, or holder of more than five percent of the fair market value of the business.

- **Reasonable limits on meals bought by lobbyists, etc., while ensuring that several lobbyists can't "split" the tab for a public official.**
"Whenever the provider is a prohibited source, the total value of the food and beverages accepted by the public servant and members of his or her household may not exceed \$50 per occasion from all sources combined or an aggregate value of \$200 from any one source during a calendar year."
- **Clarifies the exception for travel expenses.** Travel expenses paid for a public servant for an "educational or informational" activity must be "substantially related to the public servant's official duties or in the interest of the public servant's agency."

➤ **An independent Ethics Commission empowered and equipped to enforce the ethics laws.**

- **Subpoena power.** "The Commission may, upon a unanimous vote of all members, subpoena witnesses and compel their attendance, and may also require the production of books, papers, documents and other evidence."
- **Post-investigation prosecution report required by Attorney General/district attorney:** "Within 180 days of receiving a case referred by the Commission, the Attorney General or the district attorney shall respond to the commission, in writing," stating whether he or she intends to pursue the case or close it, and why.
- **Eliminating the one-member veto of an investigation.** Currently it takes the written consent of all five members of the commission to authorize a formal investigation based on probable cause. The new Code authorizes an investigation upon a vote of four members, so that no one member can block an investigation.
- **Guaranteed appropriation.** To ensure the independence of the Commission, the bill contains a provision granting a guaranteed level of appropriation unless two-thirds of the members of both houses of the Legislature vote to reduce it.